

ER-23-7311/2

27 DEC 1973

The Honorable Robert H. Bork
Acting Attorney General
Department of Justice
Washington, D. C. 20530

Dear Mr. Bork:

Your letter of 14 December 1973 commenting on my memorandum of 28 November 1973, "Actions to Control Damaging Security Leaks," is much appreciated.

I concur in your view that the concentration should be on preventive measures as opposed to relying solely on prosecution, and I am calling on members of the United States Intelligence Board to give wide dissemination to a memorandum from me which puts emphasis on the individual and the need for motivating his personal commitment for the protection of intelligence.

You noted in your letter that "There has never been a prosecution for violation of § 798, transmitting classified information relating to codes and communications intelligence." I am aware of one case, United States v. Petersen, wherein Petersen, an employee of the National Security Agency, was indicted under three counts: (1) 18 U. S. C. 793, (2) 18 U. S. C. 798, and (3) 18 U. S. C. 2071.

On 22 December 1954 Petersen entered a plea of guilty to count (2) of the indictment. One of the reasons for my mentioning this is that prosecution under § 798 is considered somewhat less difficult for the government than under the other statutes. This is believed to have been a factor in leading Petersen's attorney, a former NSA employee, to urge him to plead under § 798 rather than go to trial on all three counts.

Original - Addressee

Sincerely,

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1 - ER

OGC:JSWarner:sin [] (20 December 1973)

1 - OGC

W. E. Colby

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<p>Per our conversation this morning, I am attaching an insert to the letter of acknowledgment which you are tasked to draft going to the Acting Attorney General. His incoming letter of 14 December 1973 to Mr. Colby states: "There has never been a prosecution for violation of §798." Hopefully you can just insert the attached at the appropriate place.</p> <p><i>John S. Warner</i></p>	
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Acting General Counsel, [redacted]	12/19/73
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